

**ENVIRONMENTAL ASSESSMENT  
FOR  
ROBERT BUTLER RHINEHART BUTTE ROAD  
RIGHT-OF-WAY OR 57962**

**EA Number:** OR-030-03-004

**Lease/Serial/Case File Numbers:** OR 57962

**BLM Office:** Vale District, Malheur Resource Area

**Proposed Actions Title/Type:** Road Right-of-Way

**Location of Proposed Actions:** Willamette Meridian, Oregon  
T. 18 S., R. 45 E.,  
sec. 28, W $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
sec. 33, lots 2 and 3.

**Applicant:** Robert D. Butler

**Preparation Date:** Draft 11-15-2002, Final 12-09-2002

**I. PURPOSE OF AND NEED FOR THE PROPOSED ACTION**

Robert D. Butler has submitted a right-of-way application (OR 57962) to authorize the construction, maintenance and use of portions of the road leading to the Rhinehart Butte communications site. The subject portions of this road are located within the following described public land (see maps):

Willamette Meridian, Oregon  
T. 18 S., R. 45 E.,  
sec. 28, W $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
sec. 33, lots 2 and 3.

Mr. Butler wishes to obtain legal access to his private land in sec. 29, T. 18 S., R. 45 E., in order to develop a new communications site. There is a point on his land which has line of sight to the Oregon Trail mushroom factory and to Ontario; the mushroom factory cannot be seen from the BLM communications site. Apparently, this characteristic makes it valuable for radio and cellular telephone communications. Mr. Butler stated that he had been approached by commercial interests who want to develop a communications site on his land. If a road right-of-way were issued to Mr. Butler, it would allow his customers the use of the road.

**II. CONFORMANCE WITH LAND USE PLANS**

The Northern Malheur Management Framework Plan, approved March 18, 1983, includes the subject public lands. The proposed action conforms with this land use plan as required by the regulations found at 43 CFR 1610.5-3 (a).

The proposed action conforms with Goal 9 of the Oregon Statewide Planning Goals (1974) which is listed as follows:

1. Goal 9 calls for diversification and improvement of the economy.

The proposed action does not conflict with the Malheur County Strategic Plan (1996).

### **III. RELATIONSHIP TO STATUTES, LAWS AND REGULATIONS**

The authority for the issuance of rights-of-way is Title V of the Federal Land Policy and Management Act of 1976 (90 STAT. 2776; 43 U.S.C. 1761).

### **IV. PROPOSED ACTION AND ALTERNATIVES**

#### **A. PROPOSED ACTION-PREFERRED ALTERNATIVE**

Robert D. Butler has submitted a right-of-way application (OR 57962) to authorize the construction, maintenance and use of portions of the road leading to the Rhinehart Butte communications site. The proposed action is to issue a right-of-way to Mr. Butler to enable him to develop his adjacent land as a communications site. Those portions of the existing road located in the W $\frac{1}{2}$ NW $\frac{1}{4}$  and NW $\frac{1}{4}$ SW $\frac{1}{4}$ , sec. 28 and lots 2 and 3, T. 18 S., R. 45 E. and totaling some 3,500 feet in length, could be utilized as they are, since they are regularly maintained (see maps). A portion of the road approximately 1,060 feet in length located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , sec. 28, T. 18 S., R. 45 E., is currently a two track trail. This portion would need to be improved by blading and by cutting and filling in certain locations. The objective would be to provide an access route of a quality similar to the existing BLM road to the Rhinehart Butte communications site. This access would be used by Mr. Butler and the users of his communications site.

The right-of-way for all portions of the road located on public land would be 15 feet in width, 4,560 feet in length and would contain 1.57 acres, more or less.

#### **B. NO ACTION ALTERNATIVE**

Under this alternative the right-of-way application would be denied, and Mr. Butler would not be authorized to use this access road. Some other route involving only private land would need to be utilized. Due to the steep topography of Rhinehart Butte, such a route would be impractical and would result in a great deal more surface disturbance.

#### **C. OTHER ALTERNATIVES**

Other alternatives would include choosing another location to construct an access road across public land to Mr. Butler's land. Any conceivable alternative routes other than the existing road and two-track trail would require an increased amount of surface disturbance. For this reason, other alternatives will not be considered further.

### **V. AFFECTED ENVIRONMENT**

A general description of the area may be found in the Northern Malheur Management Framework Plan and the Draft Southeast Oregon Resource Management Plan.

The site of the proposed road right-of-way location is on the eastern face and northern peak of Rhinehart Butte. The access road, which includes private land, climbs 440 feet from its beginning at U.S. Highway 20 to the communications site at the northern end of the butte.

### **Cultural Resources:**

#### Prehistoric

The Native people of the Northern Great Basin practiced their ancestral lifeways into the 19th century and were heirs to an extremely ancient cultural tradition. Their technology was effective and efficient, utilizing many multifunctional, light-weight and expendable tools. Gathering activities are attested to by digging sticks, carrying baskets, and milling stones, and hunting is represented by the atlatl and dart, bow and arrow, stone projectile points, stone knives and scrapers.

#### Historic

Cultural resources associated with the historic use of this area are tied to landforms as transportation corridors: wagon roads, historic homesteads, early irrigation project features, early mining activity areas, and remains of stage and telegraph stations. Exploration into this area by white Europeans began in the early 1830's.

During the 1880's, small communities were established near reliable water sources, and during the 1890's, production of both cattle and sheep prospered. A rapid increase in population occurred in the northern part of Malheur County between 1930 and 1950 as a result of the development of the Vale and Owyhee Irrigation projects. The Warm Springs Irrigation District was formed from many smaller irrigation districts in the Malheur River drainage.

**Paleontological Resources:** The exploration for fossil localities has been limited, and confined to Pliocene, Miocene or Pleistocene age soils. Sediments associated with old

lake beds may contain plant, fish or other marine animal remains since they have been located in similar old lake sediments south of Vale.

**Native American Concerns:** There are no known Native American concerns in this area. There are no known plant gathering or tool stone quarries in this area.

**Land Uses:** Rhinehart Butte is grazed by livestock. However, the most important economic use of the butte is the communications site. From this point views can be had of the Malheur River and Willow Creek drainages to the west and northwest of Vale, respectively. From the same vantage point Squaw Butte and the mountain ranges north and west of Boise, Idaho can be seen. For this reason, Rhinehart Butte has value for locating transmitters and receivers for higher frequency radio communications devices whose greatest utility is limited by line of sight transmission of signals. At present, there are three separate communications buildings on the BLM site which host fourteen users.

There are no mining claims located on the proposed road right-of-way.

**Recreation:** The project site is located within an area which receives limited dispersed recreational use through activities such as hunting.

**Soils:** Soils in the area consist of silty and loamy clays.

**Vegetation:** The natural vegetative community on Rhinehart Butte is dominated by sagebrush; other plant species occurring on the site include grasses and forbs. No special status plant species are known in the area.

The vegetation on the proposed right-of-way consists of native species and weeds. These include the following:

Native Species	
Goldenrod	<i>(Solidago sp.)</i>
Greasewood	<i>(Sarcobatus vermiculatus)</i>
Wyoming big sage	<i>(Artemesia tridentata)</i>
Common sunflower	<i>(Helianthus annuus)</i>

Invader Species (Weeds)	
Flixweed	<i>(Descurainia sophia)</i>
Lambsquarter	<i>(Chenopodium berlandieri)</i>
Purple mustard	<i>(Chorispora tenella)</i>
Kochia	<i>(Kochia scoparia)</i>
Whitetop	<i>(Cardaria draba)</i>
Perennial pepperweed	<i>(Lepidium latifolium)</i>
Cheatgrass	<i>(Bromus tectorum)</i>
Curly dock	<i>(Rumex crispus)</i>
Scotch thistle	<i>(Onopordum acanthium)</i>

Common mullein	( <i>Verbascum thapsus</i> )
Bulbous bluegrass	( <i>Poa bulbosa</i> L.)

**Visual Resources:** The project area is within an inventoried VRM Class III area. Overall, the visual quality of the area is moderately low. The valleys have been developed for diversified row crops; the mountain ranges and hills outside these valleys are characteristic of a cold desert climate.

**Water Resources:** There are no perennial water courses on Rhinehart Butte. The Malheur River, a major regional drainage and a significant local tributary to the Snake River, flows around the north end of the butte.

**Wetlands/Riparian Zones:** There are no wetlands or riparian zones on Rhinehart Butte.

**Wildlife:** The area provides habitat for wildlife typical of Great Basin areas. Surveys conducted in 1998 documented use by mule deer, coyote, brewers sparrow, meadow lark, brown-headed cowbird, and sage sparrow. The location of the project area, adjacent to permanent water in The Malheur River, probably resulted in heavy historic livestock grazing. Increased human activities probably reduced the amount of native plants upon which wildlife depends.

**Fisheries:** There are no perennial watercourses on Rhinehart Butte.

## VI. ENVIRONMENTAL IMPACTS

### A. **IMPACTS OF THE PROPOSED ACTION**

Impacts to resources considered critical are summarized in the table below. Discussion concerning those resources affected may be found in the appropriate section following the table.

Critical Element	Affected		Critical Element	Affected	
	Yes	No		Yes	No
Air Quality		X	Native American Religious Concerns		X
ACECs		X	T & E Species		X
Cultural Resources		X	Wastes, Hazardous/Solid		X
Environmental Justice		X	Water Quality (Surface & Groundwater)		X

Farmlands, Prime/Unique		X	Wetlands/Riparian Zones		X
Invasive, Nonnative Species	X		Wilderness		X

**Cultural Resources:** There would be no adverse effects resulting from the implementation of the proposed action on cultural resources if the Standard Stipulations (attached) are adhered to.

**Paleontological Resources:** There would be no adverse effects to paleontological resources if the Standard Stipulations (attached) are adhered to.

**Native American Concerns:** There would be no adverse effects on native American concerns as a result of the implementation of this action.

**Land Uses:** Implementation of the proposed action would not conflict with the authorized uses occurring on this tract.

Issuance of this right-of-way would enable the development of an additional communications site on the adjacent private land to the northwest of the existing communications site.

**Recreation:** Implementation of the proposed action would not conflict with the dispersed recreational activities occurring in the area.

**Soils:** Implementation of the proposed construction activities would result in soil disturbance at the locations of the portion of the road to be improved.

**Vegetation:** The vegetation on the portion of the road to be improved would be removed. Fresh ground disturbance may facilitate the spread of noxious weeds or nonnative species, but traffic on the road may keep weeds from establishing on the running surface.

**Visual Resources:** Implementation of the proposed action would be in keeping with the inventoried VRM Class III requirements.

**Water Resources:** Implementation of the proposed action would not affect water quality in the section of the Malheur River north of Rhinehart Butte.

**Wildlife:** The issuance of the proposed right-of-way may lead to the development of a new communications site northwest of the current site. This may have incremental adverse effects on wildlife in the area. These effects would be of a similar manner and degree as those caused by the existing BLM communications site.

## **B. IMPACTS OF THE NO ACTION ALTERNATIVE**

The choice of this alternative would result in the applicant being denied the use of the existing easiest route up Rhinehart Butte. This denial may result in the applicant's inability to develop a communications site on his private land. Alternatively, such development may be delayed through the necessity to construct a road over less hospitable terrain.

No additional vegetation or soil disturbance on the subject public land would occur as a result the choice of this alternative.

## **VII. MITIGATION MEASURES AND RESIDUAL IMPACTS**

The loss of vegetation resulting from the implementation of the proposed action is not considered to be significant. Soil disturbance would be minimized through adherence to the terms and conditions of the right-of-way, including the attached special stipulations.

In general, adverse environmental impacts would not be significant. The local economy may be augmented through development of an additional communications site. The public would be provided an opportunity to use communications facilities which are presently unavailable, and which may be superior to existing facilities due to an increased coverage area.

## **VIII. PERSONS/AGENCIES CONSULTED**

<u>Name</u>	<u>Position</u>
Bob Alward	Outdoor Recreation Planner
Al Bammann	Wildlife Biologist
Jean Findley	Botanist
Jon Freeman	Realty Specialist/Team Leader
Richard Martinez	Civil Engineering Technician
Diane Pritchard	Archaeologist
Steve Christensen	Range Management Specialist
Lynne Silva	Weed Specialist
Shaney Rockefeller	Hydrologist
Cynthia Tait	Fisheries Biologist
Susie Manezes	Realty Specialist

## **IX. RECOMMENDATION**

It is recommended that Right-of-Way OR 57962 be issued to Robert D. Butler to authorize the construction, operation, maintenance and termination of portions of a road on public land at Rhinehart Butte as described in the Proposed Action section above. This right-of-way would be granted pursuant to Title V of the Federal Land Policy and Management Act of 1976 (FLPMA) and would be subject to the Act, applicable regulations contained in 43 CFR 2800 and the special stipulations attached to and made part of the grant. It is further recommended that this right-of-way be issued for 20 years, subject to renewal, and subject to valid existing rights.

The proposed action is in conformance with the Northern Malheur Management Framework Plan and is consistent with state and local land use plans.

Issuance of this right-of-way will not conflict with any foreseeable development plans on the subject lands if recommended stipulations are adhered to.

The United States owns the surface and mineral estates of the subject lands.

The subject lands have no known unique values, and there are no pending land use applications other than this.

The issuance of the grants would be consistent with Title V of FLPMA and with the regulations found at 43 CFR 2800.

Preparer: \_\_\_\_\_

Date: \_\_\_\_\_

### **FINDING OF NO SIGNIFICANT IMPACT**

I have reviewed Environmental Assessment OR-030-03-004 including the explanation and resolution of any potentially significant environmental impacts. I have determined that the proposed action with the mitigation measures described below will not have any significant impacts on the human environment and that an EIS is not required. I have determined that the proposed project is in conformance with the approved land use plan.

Authorized Official: \_\_\_\_\_  
Field Manager, Malheur Resource Area

Date: \_\_\_\_\_



## **DECISION RECORD**

It is my decision to implement the project as described in EA OR-030-03-004 with the mitigation measures identified below.

Mitigation measures/Remarks:

Authorized Official: \_\_\_\_\_ Date: \_\_\_\_\_  
Field Manager  
Malheur Resource Area